

REMARKS

Claim 31 is amended to cure a typographical error. Claims 32-37 are amended to more completely claim the invention. No new matter is added.

Fig. 2 is apparently objected to as not including a designation of "Prior Art. A new Fig. 2 is enclosed and reconsideration of the apparent objection is respectfully requested.

Claims 1-31 are rejected under 35 U.S.C. §103 as being obvious over "About ISMs, Netcool Internet Service Monitors Version 1.1" ("Netcool 1.1") in view of "Netcool/ISM v2.0 update ("Netcool 2.0"). Reconsideration of the application in light of the remarks below is respectfully requested.

In order to establish a prima facie case of obviousness, the Office Action must show 1) that the combination of the cited prior art shows all of the claimed limitations and 2) a motivation in the cited art for combining the art as suggested in the Office Action. M.P.E.P. §706.02(j). Both requirements are missing here.

Among the limitations of independent claim 1, which are neither shown nor suggested even in a combination of the art of record are:

executing instructions at a monitoring station for establishing a plurality of dial monitor processes. . .
wherein
the plurality of dial monitor processes are adapted to run concurrently, at least in part, for establishing their respective connections.

Similarly, among the limitations of independent claim 30, which are neither shown nor suggested even in a combination of the art of record are:

means for executing instructions at a monitoring station for establishing a plurality of dial monitor processes. . . wherein the plurality of dial monitor processes are adapted to run concurrently, at least in part, for establishing their respective connections.

Among the limitations of independent claim 31, which are neither shown nor suggested even in a combination of the art of record are:

a computer usable medium having computer readable program code means embodied therein for testing multiple dial-up points in a communications network from a monitoring station;
the computer readable program code means comprising means for executing instructions at the monitoring station for establishing a plurality of dial monitor processes. . . wherein the plurality of dial monitor processes are adapted to run concurrently, at least in part, for establishing their respective connections.

The Office Action admits that Netcool 1.1 does not disclose any dial monitor process and points to Netcool 2.0 as showing the above referenced limitations. However, even as stated in the Office Action, Netcool 2.0 only shows monitoring dialup service over a modem. Office Action, page 3. There is no discussion for establishing a plurality of dial monitor processes nor for enabling these plurality of processes to run, at least in part, concurrently – as is claimed in all of independent claims 1, 30 and 31.

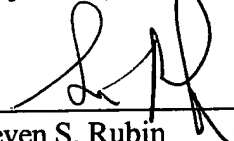
In addition to not showing the claimed limitations in the cited art, the Office Action does not set forth a motivation in the cited art for making the asserted combination. Absent such a

motivation, a prima facie case of obviousness cannot be made. The Office Action appears to state a perceived benefit of the combination of the prior art – that of enabling one to monitor dial up service over a modem and perform arbitrary tests – but there is no indication why one with ordinary skill in the art would be motivated to make the asserted combination.

Therefore, it is asserted that claims 1, 30 and 31 are patentable over even a combination of the art of record. Claims 2-29 include the above referenced limitations of claim 1 and include additional limitations which, in combination with the limitations of claim 1, are also neither disclosed nor suggested even in a combination of the art of record. It is asserted that these claims are patentable as well.

Reconsideration of the rejection of claims 1-31 under 35 U.S.C. §103 is respectfully requested in light of the remarks above.

Respectfully submitted,



Steven S. Rubin
Reg. No. 43,063
BROWN RAYSMAN MILLSTEIN FELDER
& STEINER LLP
900 Third Avenue
New York, New York 10022
(212) 895-2000

Dated: July 25, 2003